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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL APPEAL NO.1210 OF 2002

Ranjana Suresh Jadhav)
At present lodged in Yerawada)
Prison, Pune.).. APPELLANT

VERSUS

The State of Maharashtra).. RESPONDENT

Ms.Smita Gaidhani, Appointed Advocate, for the Appellant.

Mr.D.R. More, Additional Public Prosecutor, for the Respondent State.

CORAM: V.G. PALSHIKAR, Acg.C.J. & SMT.NISHITA MHATRE, J.

DATED: 23RD AUGUST 2006

ORAL JUDGMENT : (PER MHATRE, J.)

. The Appellant has been convicted for the offence under Section 302 and sentenced to suffer life imprisonment as also to pay a fine of Rs.500/-.

2. One Suresh Jadhav (PW3) lived with his two wives who he married after his first wife died. Their respective children as well as a son Prakash (PW1) from his first wife also lived with them. The deceased Sindhubai, the second wife of Suresh, was an imbecile. She was the sister of his first wife. Suresh married Sindhubai after the death of his first wife. He later married the accused Ranjana. It is the case of the prosecution that the two wives, the deceased and the accused, often quarrelled. The accused would then

return to her maternal home in another village. On the fateful day i.e. 23rd November 1999, Suresh locked his two wives at home and handed over the key to Prakash. It is the case of the prosecution that Suresh did this because on the earlier day after quarrelling with the deceased, the accused had left the house. Prakash (PW1) had then persuaded her to return home. According to the prosecution, after being handed over the key of the house, Prakash went to the bus station and whiled away his time. He returned home at around 1.45 p.m. for lunch. When he reached near the house, he heard his step mothers quarrelling. He unlocked the door and found the accused assaulting the deceased with a stone roller. The accused then left the house while Prakash lodged the FIR with the Police Outpost at Pabal. Complaint was registered and the investigations commenced.

3. The accused was arrested pursuant to the investigations conducted. All other procedures like drawing up of the inquest panchanama and spot panchanama were completed and the case was committed to Sessions for trial.

4. The prosecution has examined seven witnesses to prove the offence against the accused. PW1, who is the complainant, has deposed that there were frequent quarrels between his step mothers. The material part of his evidence is that when he returned home on 23rd

November 1990 between 1.30 and 1.45 p.m. he unlocked the door of his house and found the deceased lying in a pool of blood with a bleeding injury on her head. The accused was crying near her. She left the house once PW1 entered. PW1 has also deposed that he saw the stone roller lying near the deceased who was not making any movement at that point of time. He has further stated that the accused on seeing him fled from the house. He then rushed to the Doctor who informed him that Sindhubai was dead. He has then deposed that he then found the accused and took her to police station. Significantly in the FIR he has mentioned that when he returned home in the afternoon for lunch at about 1.45 p.m., he heard his step mothers quarrelling. He, therefore, unlocked the door of the house, when he found the accused assaulting the deceased with the rolling stone. These are material omissions in the deposition of PW1. Had he in fact seen the offence, he would have stated so in his deposition. Obviously, therefore, there is a discrepancy between the FIR lodged by him and his deposition in Court. Furthermore, while in Court, he has deposed that the stone roller had no blood stains, in the FIR he has stated to the contrary.

5. PW2 is the panch witness called to depose to the spot panchanama. He has stated that a quilt and the rolling stone were seized from the spot. The quilt which had blood stains on it was lying near a table. Certain other articles in the house also had blood

stains on them. The stone roller bore blood stains as well at one end.

6. PW3 is the husband of both the deceased and the accused. He has deposed that the deceased was an imbecile. He has further testified that the relationship between his two wives was strained and they would often quarrel. The witness has then stated that he had locked his house and confined the accused and the deceased in the house. He has also stated that the key of the house was given to PW1.

7. The post mortem report indicates that the death occurred on account of fracture of the skull bones and laceration of brain matter. The deceased suffered a haemorrhagic shock due to the injuries sustained by her. Besides this, the Doctor, PW4, who was examined, has stated that there were incised wounds on the frontal region of the forehead of the deceased, above the right eye lid and the right parietal region. The Doctor has opined that such injuries would not result from the victim hitting her head against the wall violently or on an iron bar. He has denied the suggestion that the injuries were possible due to a sudden fall on a hard object.

8. PW5 is the panch witness who was present when the clothes of the accused were seized. PW6, who was the Head Constable at the police station at the relevant

time, has stated that PW1 had arrived at the police station alone for lodging the complaint. This deposition is contrary to what PW1 has stated in his examination in chief where he has deposed that after the Doctor certified that Sindhubai had died, he ran after the accused and took her to the police station.

9. PW7 is the Investigating Officer. He has deposed to the reports obtained from the Chemical Analyser. These reports indicate that the stone roller, the clothes of the accused and the clothes of the deceased bear blood stains of blood group "A". However, the stains on the quilt, though of human blood, could not be grouped.

10. We have carefully scrutinised the entire record and reappreciated and analysed the evidence and find that we are unable to uphold the conviction.

11. The learned Advocate for the Appellant submits that there are material omissions from the evidence of the witnesses examined for the prosecution. She submits that various contradictory statements have been made by PW1 in respect of having witnessed the crime, the blood stains on the stone roller. She further states that there is no explanation as to how the deceased had sustained incised wounds on her forehead and other parts of her face. All these factors would be fatal to the case of the prosecution which is essentially based on

circumstantial evidence. She further submits that there is no clear evidence on record pointing to the guilt of the accused. The panch witness No.2 has deposed to the fact that there is another entrance to the house and only one door was locked. All these facts, according to the learned Advocate, would demonstrate that the prosecution has failed to prove its case against the Appellant to the hilt.

12. The learned APP submits that there is circumstantial evidence on record which points to the guilt of the accused. According to him, applying the theory of "last seen together", the accused and deceased were locked in the same house by their husband, the inference that the accused was in a position to commit the crime is inevitable. He further points out that there are blood stains on the stone roller as well as on the quilt and other articles in the house. He submits that these circumstances would indicate that it is the accused who committed the crime. Another factor which must be borne in mind, according to the learned APP, is that no other person had access to the house while the accused and the deceased were in the house. Immediately after the door was unlocked, the accused ran away, which is indicative of a circumstance against the accused. He, therefore, submits that the aforesaid circumstances prove the guilt of the accused.

13. While examining whether the prosecution has

proved its case against the accused, we must bear in mind certain principles for accepting circumstantial evidence. The circumstances must not be trifling. They must form a link in a chain of circumstances which admit no other conclusion but the one that the prosecution canvasses. In the case of *Prem Thakur* vs. *State of Punjab*,**(1982) 3 SCC 462**, the Apex Court has observed thus:-

> "11. The High Court could not but be aware of the principle that in a case which depends wholly upon circumstantial evidence, the circumstances must be of such a nature as to be capable of supporting the exclusive hypothesis that the accused is guilty of the crime of which he is charged. That is to say, the circumstances relied upon as establishing the involvement of the accused in the crime must clinch the issue of guilt. Very often, circumstances which establish the commission of an offence in the abstract are identified as circumstances which prove that the prisoner before the court is guilty of the crime imputed to him. An a priori suspicion that the accused has committed the crime transforms itself into a facile belief that it is he who has committed the crime. Human mind plays that trick on proof of the commission of a crime by resisting the frustrating feeling that no one can be identified as the author of that crime. ..."

14. We will now consider each of the circumstances relied on by the prosecution to establish the charge against the accused. The first circumstance is that the Appellant and the accused had a strained relationship. There is credible evidence on record to indicate that they did have a strained relationship. However, this would not necessarily lead to the inference that the

prosecution wants us to draw. The next circumstance is that the accused and the deceased were last seen together as they were locked in the same house by their husband. This circumstance also, in our opinion, would not point to the guilt of the accused. Merely the fact that both the women were confined in the same house and that they had a strained relationship, would not necessarily mean that the accused would kill the deceased.

15. The next circumstance relied on by the prosecution is that the stone roller was found lying near the deceased with stains of blood on it at one end. Other articles in the house including a quilt also had blood stains. All the articles bore stains of blood group "A". The blood group of the stains on the quilt could not be identified. Again, this is not a circumstance which would lead unequivocally to the conclusion that the accused had committed the crime. There is no evidence on record to indicate that the stains borne on the articles including the stone roller were of the same blood group as that of the deceased. Therefore, it would not be possible to draw a conclusion that the blood stains which these articles bore were those of the deceased. The circumstance that the accused left the house or had run away after the door was unlocked, would also not, in our opinion, indicate that she was guilty of the crime.

16. While considering these circumstances, one factor which needs to be borne in mind is that the panch witness, PW2, has stated that the house had two entrance and only one of them was locked. Therefore, there is room for doubt that somebody else could have entered the premises while one door was locked. Besides the incised wounds on the face of the deceased have not been explained by the prosecution. The weapon used for inflicting these incised wounds has neither been recovered nor is there any evidence regarding the weapon.

17. On analysing the evidence thus, we find that the chain of circumstances is not complete. They do not conclusively establish and prove the case of the prosecution that the accused is guilty. On a reappraisal of the evidence on record, we are unable to accept the case of the prosecution. We, therefore, set aside the judgment dated 3rd March 2001 passed by the 6th Additional Sessions Judge, Pune in S.C. No.153 of 2000.

18. Appeal allowed. Appellant be released forthwith, if not otherwise required in law.

(V.G.PALSHIKAR, Acg.C.J.)

(SMT. NISHITA MHATRE, J.)